

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Dominick Anthony Pontiere,)	
)	Civil Action No. 4:11-cv-01521-JMC
Plaintiff,)	
)	
v.)	ORDER
)	
Michael Schwartz,)	
)	
Defendant.)	
_____)	

This matter is before the court upon the Report and Recommendation (“Report”) [Doc. 50] of United States Magistrate Judge Thomas E. Rogers, III filed on May 7, 2012. *Pro se* plaintiff Dominick Anthony Pontiere (“Plaintiff”), a former pretrial detainee at the Georgetown County Detention Center (“GCDC”), filed this action under 42 U.S.C. § 1983 on June 23, 2011, alleging that Defendant Michael Schwartz (“Defendant”) violated his constitutional rights. Defendant filed a Motion for Summary Judgment on January 20, 2012. [Doc. 45]. The Report recommends that the court grant Defendant’s Motion for Summary Judgment and that any other outstanding motions be deemed moot. Plaintiff responded with a Notice of Right to File Objection to Motion for Summary Judgment on May 24, 2012. [Doc. 52]. The Report sets forth in detail the relevant facts and legal standards on this matter which the court incorporates herein.

STANDARD OF REVIEW

The Magistrate Judge’s Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423

U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

DISCUSSION

After receiving the Magistrate Judge's Report on the pending motions, Plaintiff timely filed objections. [Doc. 52]. Objections to the Report must be specific. Failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984). In the absence of specific objections to the Magistrate Judge's Report and Recommendation, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

Plaintiff objects to the Magistrate Judge's Report on the grounds that: 1) he was not given adequate time or the resources to respond to Defendant's motion; 2) his case was timely filed or he should have been given the benefit of equitable tolling; and 3) there is a lack of the administration of justice in the handling of his claim. In reviewing Plaintiff's objections to the Report, the court finds that Plaintiff's objections are non-specific, unrelated to the dispositive portions of the Magistrate Judge's Report, or merely restate his claims. The Report provides a thorough discussion of Plaintiff's primary issues in this case: an analysis of the 42 U.S.C. § 1983 claim with the relevant elements required for Plaintiff to prevail and respective defenses asserted by Defendant. Plaintiff has failed to make a sufficient showing on the essential elements of his case for which he has the

burden of proof. Accordingly, this court adopts the Magistrate Judge's Report and Recommendation and **GRANTS** Defendant's Motion for Summary Judgment [Doc. 45].

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

May 31, 2012
Florence, South Carolina